

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO. 649 OF 2022

Madhukar Maruti Tapare ...Appellant

Versus

The State Of Maharashtra And Anr. ...Respondents

WITH

CRIMINAL APPEAL NO. 481 OF 2022

Sachin Tamanna Chougule ...Appellant

Versus

State Of Maharashtra And Anr. ...Respondents

WITH

CRIMINAL APPEAL NO. 650 OF 2022

Vishwas Sakharam Chougule ...Appellant

Versus

The State Of Maharashtra And Anr. ...Respondents

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Mr. Sandeep S. Salunkhe, Advocate for the Appellant.

Mr. Sushan Mhatre for Respondent No.2 in all matters.

Mr. S. R. Agarkar, APP for the Respondent – State.

ASI Dattatray Tondle, Mangalvedha police station, Solapur Rural,
present.

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CORAM : PRAKASH D. NAIK, J.

DATE : 30th AUGUST, 2022

PC :

1. These are Appeals under Section 14-A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as “SC and ST Act”). The appellants are seeking pre-arrest bail in connection with C.R. No.202 of 2022 registered with Mangalwedha Police Station, Solapur Rural for

offence under Sections 327, 452, 427, 324, 323, 504, 506, 143, 147, 148 and 149 of Indian Penal Code and Section 3(1)(r), 3(1)(s) and 3(2)(va) of SC and ST Act.

2. The appellants had preferred an application for anticipatory bail before the Court of Sessions. The said applications were rejected vide orders dated 21st June 2022, 26th April 2022 and 21st June 2022 respectively.

3. The brief facts of the prosecution case is that, the complainant belonging to scheduled caste. In the past, she was elected as Sarpanch. On 17th March 2022, about 15 persons came to the house of complainant and they called her husband outside and questioned him for opposing one of the accused. There was altercation between them. Accused Sachin T. Chaugule picked up the stick and assaulted complainant's husband. The other accused assaulted him with fist and kick blows. The complainant gave call to her relative, who also came at the spot of incident. One of the accused assaulted the complainant with stick. All the assailants then abused complainant and her associates on the basis of their caste and questioned them for interfering in politics. They also assaulted Arjun Shembde and Amol Shembde with sticks. Some of them snatched the Mangalsutra of complainant and ran away. The complainant and others approached police and they were taken to the hospital for treatment. FIR was

registered.

4. The appellants were granted interim protection by this Court vide order dated 30th June 2022. Subsequently vide order dated 21st July 2022 the appellant in Criminal Appeal Nos. 649 of 2022 and 650 of 2022 were directed to report Investigating Officer on 26th July 2022.

5. Learned Advocate for the appellants submitted that the offences were registered out of vendetta. The FIR was registered against 15 persons. It is difficult to believe that all 15 accused hurled abuses in chorus. There were no independent persons at the scene of offence when the alleged abuses were hurled against them. Co-accused Nana Tapre and Samadhan Chaugule were granted pre-arrest bail by the Sessions Court vide order dated 5th May 2022.

6. Learned APP and learned Advocate for Respondent No.2 submitted that, there were abuses on caste. Some other persons were assaulted and abuses to the complainant and others on the basis of their caste. Complainant's husband, complainant and other persons were assaulted by accused. There is bar under Section 18 of the SC and ST Act for grant of anticipatory bail.

7. From the tenor of the FIR it appears that, the complainant grievance is that several persons gathered near her house and questioned her husband for opposing one of the accused, who is

sarpanch of the village. The complainant was sarpanch in the past. The complainant gave call to her relative, who also gathered at the scene of offence. There were about 15 persons and some of them allegedly assaulted by sticks. Looking at the overt act attributed to the accused, custodial interrogation is not necessary. Overt act attributed is vague. The question arises for consideration is whether the appellants are entitled for pre-arrest bail in view of bar under Section 18 of the SC and ST Act. According to the complainant, all the accused had abused the complainant and her relatives on the basis of caste. It is pertinent to note that the person gathered at the spot is complainant, her husband and her relative. There is no reference of independent person at the scene of offence at the time when the alleged abuses were hurled against the victim. It is difficult to accept that the victim were abused on the basis of caste within public view. Hence, case for grant of anticipatory bail is made out. Bar under Section 18 of the Act would not be attracted.

ORDER

- (i) Criminal Appeal Nos. 649 of 2022, 481 of 2022 and 650 of 2022 are allowed and disposed off.
- (ii) Order dated 21.06.2022 passed by Additional Sessions Judge, Pandharpur in Atro. Special Case No. 12 of 2022 rejecting application for anticipatory bail preferred by appellants in Criminal

Appeal No. 649 of 2022 and 650 of 2022 is set aside.

(iii) Order dated 26.04.2022 passed by Additional Sessions Judge-2, Pandharpur in Criminal M.A. No. 346 of 2022 rejecting application for anticipatory bail by Appellant in Criminal Appeal No. 481 of 2022 is set aside.

(iv) In the event of arrest of the appellants in connection with C.R. No. 202 of 2022 registered with Mangalwedha police station, Solapur Rural, the appellants be released on bail on executing PR bond in the sum of Rs.15,000/- each with one or more sureties in the like amount.

(v) The appellants shall appear before the Investigating Officer as and when called for.

(v) The appellants shall not tamper with the evidence.

(vi) The appellants shall maintain peace and tranquility.

(vii) Appellants shall not intimidate complainant and his family members.

(PRAKASH D. NAIK, J.)